

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

GERALD RUHNOW; CONNIE RUHNOW,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO. CV 2:05-cv-527-F
)	
LANE HEARD TRUCKING, LLC., et al.,)	
)	
Defendants.)	
)	
NORTHLAND INSURANCE CO.,)	
)	
Intervener,)	
)	
v.)	
)	
LANE HEARD TRUCKING, LLC., et al.,)	
)	
Defendants.)	

**PLAINTIFFS GERALD RUHNOW AND CONNIE RUHNOW'S
REQUESTED JURY CHARGES**

COME NOW plaintiffs in the above-styled action and, pursuant to this Court's Scheduling Order, hereby submit the attached Jury Charges for consideration. Plaintiffs adopt and incorporate Northland Insurance Company's Requested Jury Charges 1-26, 40-44, 45(but for the last two sentences), 53-54, 56, 58 and 59. Plaintiffs have not submitted a requested Jury Verdict Form at this time, as it was counsel for plaintiffs understanding

at the Pre-Trial Conference that the Court was to consider a proper jury form during the trial of this matter.

This 12th day of January, 2006.

Respectfully submitted,

/s/ J. Callen Sparrow
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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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/s/ J. Callen Sparrow
Of Counsel

PLAINTIFFS' REQUESTED CHARGE NO. 1

The plaintiffs claim the defendants were negligent in the operation of their motor vehicles and that their negligence combined and concurred to proximately cause certain injuries and damages suffered by the plaintiffs. The defendants in answer to the plaintiffs' complaint deny that they were negligent and deny that any actions by them combined and concurred to proximately cause the injuries and damages suffered by the plaintiffs.

This presents for your determination the following:

Was any defendant negligent as claimed by the plaintiffs?

If so, was such negligence of any defendant the proximate cause of any injury or damage sustained by the plaintiffs as claimed?

If you find both of the above issues in favor of the plaintiffs and against any defendant, what sum of money will fairly and reasonably compensate the plaintiffs for the injury or damage so sustained?

If either of the above elements are not proven to your reasonable satisfaction as to any defendant, then your verdict should be in favor of such defendants.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 21.01 Plaintiff's Negligence Claim- General Denial

PLAINTIFFS' REQUESTED CHARGE NO. 2

The plaintiffs claim the defendants wantonly operated their motor vehicles and that the defendants wantonly injured the plaintiffs, and that as a proximate consequence thereof, the plaintiffs suffered injuries and damages. The defendants deny that they acted wantonly and deny that any actions by them combined and concurred to proximately cause the injuries and damages suffered by the plaintiffs.

This presents for your determination the following:

Was any defendant guilty of wantonness as claimed by the plaintiffs?

If so, was the wantonness of any defendant the proximate cause of any injury and damage sustained by the plaintiffs?

If so, what sum of money will fairly and reasonably compensate the plaintiffs for the injury and damage so sustained, taking also into consideration the question of punitive damages as will be explained to you later?

If either of the above elements are not proven to your reasonable satisfaction as to any defendant, then the plaintiffs would not be entitled to recover against any defendant under the plaintiffs' claims based on wanton conduct.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 21.02 Plaintiffs' Wanton Claim- General Denial

PLAINTIFFS' REQUESTED CHARGE NO. 3

Negligence means the failure to exercise reasonable care; that is, such care as a reasonably prudent person would have exercised under the same or similar circumstances.

Therefore, "negligence" is the failure to do what a reasonably prudent person would have done under the same or similar circumstances, or, the doing of something which a reasonably prudent person would not have done under the same or similar circumstances.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 28.01 Negligence and Ordinary Care

PLAINTIFFS' REQUESTED CHARGE NO. 4

The negligence of two or more persons may concur and combine to proximately cause injuries and damages. Causes "concur and combine" when they join together to produce a given result.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 28.04 Concurring and Combining Negligence- Definition

PLAINTIFFS' REQUESTED CHARGE NO. 5

In lawsuits such as this, all persons are jointly and severally liable for the proximate results of their negligence.

GIVEN_____ REFUSED_____ WITHDRAWN _____

APJI 28.08 Joint and Several Liability

PLAINTIFFS' REQUESTED CHARGE NO. 6

The proximate cause of an injury is that cause which in the natural and probable sequence of events, and without the intervention of any new or independent cause, produces the injury and without which such injury would not have occurred.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 33.00 Proximate Cause- Definition

PLAINTIFFS' REQUESTED CHARGE NO. 7

If one is guilty of negligence which concurs or combines with negligence of another, and the two combine to produce injury, each negligent person is liable for the resulting injury and the negligence of each will be deemed the proximate cause of the injury.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 33.01 Combined and Concurrent Causes

PLAINTIFFS' REQUESTED CHARGE NO. 8

The disputed issues of fact to be decided by you in this case are whether the defendants negligently operated their motor vehicles and whether their negligence combined and concurred to proximately cause certain injuries and damages suffered by the plaintiffs. The burden is upon the plaintiffs to reasonably satisfy you by a preponderance of the evidence of the truthfulness of the matters and things claimed by them before the plaintiffs would be entitled to recover.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 8.00 General Denial by Defendant; *Chatman v. Houston*, 777 So.2d 745 (Ala. Civ. App. 2000).

PLAINTIFFS' REQUESTED CHARGE NO. 9

If you are reasonably satisfied from the evidence in this case that all, or more than one, of the defendants were negligent and that their negligence concurred and combined to proximately cause the injuries and damages claimed by the plaintiffs, then each defendant found negligent is liable to the plaintiffs.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 28.05 Concurring and Combining Negligence of Defendants

PLAINTIFFS' REQUESTED CHARGE NO. 10

Compensatory or actual damages are allowed and should be awarded where the plaintiffs reasonably satisfy the jury from the evidence that the plaintiffs have been injured or damaged as a proximate result of an act of negligence on the part of the defendants, or where the plaintiffs reasonably satisfy the jury from the evidence that plaintiffs have been wantonly injured by the defendants.

Punitive or exemplary damages are allowed to the plaintiffs and may be awarded in the sound discretion of the jury in cases where the plaintiffs prove by clear and convincing evidence that the defendants consciously or deliberately engaged in wantonness with regard to the plaintiffs.

GIVEN_____ REFUSED_____ WITHDRAWN _____

APJI 11.01 Damages- General

PLAINTIFFS' REQUESTED CHARGE NO. 11

Wantonness is the conscious doing of some act or omission of some duty under knowledge of existing conditions and conscious that from the doing of such act or omission of such duty an injury will likely or probably result. Before a party can be said to be guilty of wanton conduct it must be shown that with reckless indifference to the consequences he either consciously and intentionally did some wrongful act or consciously omitted some known duty which produced the injury.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 29.00 Wantonness- Definition

PLAINTIFFS' REQUESTED CHARGE NO. 12

The purpose of awarding compensatory damages is to fairly and reasonably compensate the injured party for the loss or injury sustained. Compensatory damages are intended as money compensation to the party wronged, to compensate him for his injury and other damages which have been inflicted upon him as a proximate result of the wrong complained of.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 11.02 Compensatory Damages

PLAINTIFFS' REQUESTED CHARGE NO. 13

The purpose of awarding punitive or exemplary damages is to allow money recovery to the plaintiffs by way of punishment to the defendants, and for the added purpose of protecting the public by deterring the defendants and others from doing such wrong in the future. The imposition of punitive damages is entirely discretionary with the jury. Should you award punitive damages, in fixing the amount, you must take into consideration the character and degree of the wrong as shown by the evidence in the case, and the necessity of preventing similar wrongs.

For a plaintiff to be entitled to recover punitive damages, the plaintiff must prove by clear and convincing evidence that the defendant consciously or deliberately engaged in wantonness with regard to the plaintiff.

Clear and convincing evidence means evidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element of the claim and a high probability as to the correctness of the conclusion. Proof by clear and convincing evidence requires a level of proof greater than a preponderance of the evidence or the substantial weight of the evidence, but less than beyond a reasonable doubt.

Wantonness means conduct which is carried on with a reckless or conscious disregard of the rights or safety of others.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 11.03 Punitive Damages

PLAINTIFFS' REQUESTED CHARGE NO. 14

The plaintiffs claim compensation for the following items or elements of damages: medical expenses, loss of earnings, physical pain and suffering, disfigurement, mental anguish, and loss of consortium.

GIVEN _____ REFUSED _____ WITHDRAWN _____

APJI 11.04 Personal Injury- Elements

PLAINTIFFS' REQUESTED CHARGE NO. 15

The law has no fixed monetary standard to compensate for physical pain and mental anguish. This element of damage is left to your good sound judgment and discretion as to what amount would reasonably and fairly compensate the plaintiffs for such physical pain and mental anguish as you find from the evidence the plaintiffs did suffer.

If you are reasonably satisfied from the evidence that the plaintiffs have undergone pain and suffering or mental anguish as a proximate result of the injury in question, you should award a sum which will reasonably and fairly compensate them for such pain, suffering, or mental anguish suffered by them.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 11.05 Personal Injury- Physical Pain and Mental Anguish

PLAINTIFFS' REQUESTED CHARGE NO. 16

The measure of damages for medical expenses is all reasonable expenses necessarily incurred for doctors' and medical bills which the plaintiffs have paid or become obligated to pay. The reasonableness of, and the necessity for, such expenses are matters for your determination from the evidence.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 11.09 Personal Injury- Medical Expenses

PLAINTIFFS' REQUESTED CHARGE NO. 17

It is for you to determine from the evidence the nature, extent and duration of the plaintiff's injuries. If you are reasonably satisfied from the evidence that the plaintiff has suffered disfigurement, and that such injuries proximately resulted from the wrongs complained of, then you should include in your verdict such sum as you determine to be reasonable compensation for such injuries.

GIVEN_____ REFUSED_____ WITHDRAWN _____

APJI 11.06 Permanent Injuries or Disfigurement

PLAINTIFFS' REQUESTED CHARGE NO. 17

In determining the amount of damages for loss of earnings, you should consider any evidence of the plaintiff's earning capacity, his earnings, the manner in which he ordinarily occupied his time before the injury, his inability to pursue his occupation, and determine what he was reasonably certain to have earned during the time so lost, had he not been disabled.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 11.10 Loss of Earnings

PLAINTIFFS' REQUESTED CHARGE NO. 18

If you find for the plaintiffs, you may also determine the amount of money that will reasonably compensate Connie Ruhnow for any damages sustained by loss of her husband's consortium and services. Consortium includes love, companionship, affection, society, comfort, solace, support, sexual relations and services. You may take into consideration the length of time of such loss.

GIVEN_____ REFUSED_____ WITHDRAWN_____

APJI 11.13-A Consortium and Services- Husband